

Part 3

Tobacco Products

59-14-301 Registration and licensing -- Fee -- Bond exceptions.

- (1) All manufacturers and distributors of all tobacco products, as defined in Section 59-14-102, who are responsible for the collection of tax on tobacco products under this chapter, and all retailers of all tobacco products:
 - (a) shall register with the commission;
 - (b) shall be licensed by the commission under Part 2, Cigarettes; and
 - (c) are subject to the requirements, procedures, and penalties described in Part 2, Cigarettes.
- (2) A fee may not be charged for registration and licensing of manufacturers, jobbers, distributors, or retailers of tobacco products in addition to the cigarette license if such a license is required.
- (3) The commission shall require any manufacturer, wholesaler, retailer, or any other person subject to this section, and who is responsible for the collection of tax on tobacco products under this chapter, to post a bond as a prerequisite to registering. The bond shall be in a form and an amount determined by the commission. If the bond is required under Section 59-14-201, the bond may be a combination, the minimum amount of which shall be \$1,000.

Amended by Chapter 96, 2011 General Session

59-14-301.5 Commission action to suspend or revoke license.

- (1)
 - (a) The commission shall suspend or revoke licenses to sell tobacco, as required under Section 26-42-103 regarding suspension or revocation of a license due to the sale of tobacco products to a person younger than 19 years of age, upon receipt of notice of an enforcing agency's order or order of default, finding a violation of Section 26-42-103.
 - (b) The commission shall provide written notice of the suspension or revocation to the licensee.
- (2) It is the duty of the enforcing agency to advise the commission of any order or order of default finding a violation of Section 26-42-103, for which suspension or revocation of the license is a penalty.
- (3) When the commission revokes a licensee's license under this section the commission may not issue to the licensee, or to the business entity using the license that is revoked, a license under Section 59-14-202 or 59-14-301 to sell tobacco at the location for which the license was issued for one year after:
 - (a) the day on which the time for filing an appeal of the revocation ends; or
 - (b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.

Amended by Chapter 96, 2011 General Session

59-14-302 Tax basis -- Rates.

- (1) As used in this section:
 - (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.
 - (b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:
 - (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

- (ii) who pays the original Utah destination freight charge.
- (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.
- (3)
 - (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.
 - (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.
- (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the rate of the tax under this section is .86 multiplied by the manufacturer's sales price.
- (5)
 - (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:
 - (i) at a rate of \$1.83 per ounce; and
 - (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.
 - (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:
 - (i) on that fractional part of one ounce; and
 - (ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6)
 - (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).
 - (b)
 - (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).
 - (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.
- (7)
 - (a) Moisture content of a tobacco product is determined at the time of packaging.
 - (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:
 - (i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and
 - (ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).
 - (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).
 - (d) A person described in Subsection (3) who is required to pay tax on a tobacco product:
 - (i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and
 - (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

Amended by Chapter 189, 2014 General Session

59-14-303 Remittance of tax -- Returns -- Invoice required -- Filing requirements -- Reports -- Exceptions -- Penalties -- Overpayments.

- (1) The taxes imposed on all tobacco products shall be remitted to the commission together with quarterly returns as prescribed by the commission. These returns shall be due and payable to the commission quarterly on or before the last day of the month following each calendar quarterly period.
- (2) Every manufacturer, wholesaler, retailer, or any other person selling tobacco products to persons other than ultimate consumers shall furnish with each sale an itemized invoice showing the seller's name and address, the name and address of the purchaser, the date of sale, the name and price of the product, and the discount, if any. A notation should be made that the price includes or does not include the tax. Copies of this invoice shall be retained by the seller and the purchaser and shall be available for inspection by the commission or its agent for a period of three years following the sale.
- (3)
 - (a) A consumer who purchases untaxed products subject to the tax imposed by this part for use or other consumption, shall file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the products and pay the tax imposed by this part on those products.
 - (b) The statement described in Subsection (3)(a) shall be filed and the tax paid on or before the last day of the month immediately following the month during which the tobacco products were purchased.
 - (c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date the return required by this part was filed.
- (4) No report is required from tourists who import any products taxed by this part if the products are for their own use or consumption while in this state.
- (5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a person subject to this section fails to:
 - (a) pay the tax prescribed by this part;
 - (b) pay the tax on time; or
 - (c) file a return required by this part.
- (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 6, 2007 General Session

59-14-304 Transitional inventory tax on tobacco products -- Penalties and interest for failure to comply.

- (1) In addition to the tax described in Section 59-14-302, there is imposed, beginning on July 1, 2010, an inventory tax on all tobacco products subject to the tax described in Section 59-14-302, upon the sale, use, or storage of those tobacco products in the state, as follows:
 - (a) the tax imposed in this section applies only to tobacco products sold, used, or stored in the state on or after July 1, 2010:
 - (i) for which the tax was paid at the tax rate imposed under Section 59-14-302 that was applicable on June 30, 2010; and
 - (ii) for which the tax imposed in this section has not been paid; and
 - (b) the tax imposed in this section is equal to the difference between:

- (i) the tax imposed on those tobacco products under Section 59-14-302, beginning on July 1, 2010; and
 - (ii) the tax imposed on those tobacco products under Section 59-14-302 on or before June 30, 2010.
- (2) The tax imposed in this section shall be paid by the manufacturer, jobber, distributor, wholesaler, or retailer.
- (3) A person described in Subsection (2) shall remit the tax imposed in this section, in a return prescribed by the commission, on or before July 31, 2010.
- (4) Failure of a person to comply with the requirements of this section subjects the person to the penalties and interest described in Sections 59-1-401 and 59-1-402.
- (5) The commission may not waive the interest or penalties imposed on a person for failure to comply with the requirements of this section.

Amended by Chapter 407, 2010 General Session, (Coordination Clause)

Enacted by Chapter 415, 2010 General Session

59-14-305 Credit or refund for cigarette rolling machine operator.

- (1) A cigarette rolling machine operator may claim a credit or refund on a return filed under Section 59-14-303 as provided in this section if:
 - (a) a person pays a tax under this chapter on tobacco that the person sells or provides to the cigarette rolling machine operator; and
 - (b) the cigarette rolling machine operator pays a tax under Section 59-14-302 on the tobacco that the cigarette rolling machine operator:
 - (i) purchases or is provided with under Subsection (1)(a); and
 - (ii) uses to produce a cigarette from the cigarette rolling machine.
- (2) The credit under this section is the lesser of:
 - (a) the tax paid under Subsection (1)(a); or
 - (b) the tax paid under Subsection (1)(b).
- (3) A cigarette rolling machine operator that claims a credit or refund under this section shall:
 - (a) keep in a form prescribed by the commission books and records that are necessary to establish the tax paid under Subsection (1)(a) and the tax paid under Subsection (1)(b) for purposes of calculating the credit or refund the cigarette rolling machine operator may claim;
 - (b) keep the books and records described in Subsection (3)(a) for the time period during which an assessment may be made under Section 59-1-1408; and
 - (c) open the books and records for examination at any time by:
 - (i) the commission; or
 - (ii) an agent or representative the commission designates.

Enacted by Chapter 148, 2013 General Session